UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,451	01/30/2001	Farrukh S. Najmi	SUN1P817	3454

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EXAMINER
ALPERT, JAMES M

ART UNIT	PAPER NUMBER
3624	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _03 August 2005_.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-33_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-33_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

The following communication is in response to Applicant's amendment filed on August 3, 2005.

Status of Claims

Claims 3-21 are original. Claims 1-2 are currently amended. Claims 22-33 are new, so therefore, Claims 1-33 are currently pending.

Response to Arguments

With regard to the rejections filed under 35 U.S.C. §112, Applicant's arguments have been fully considered, and they are persuasive. The rejections are hereby withdrawn.

With regard to the rejections filed under 35 U.S.C. §103, Applicant's arguments filed August 3, 2005 have been fully considered, but they are not persuasive, as discussed below. Therefore, Claims 1-22 remain rejected as stated in the previous office action, while Claims 22-33 are newly rejected. Applicant's request for allowance is respectfully declined.

Claim Rejections - 35 USC § 103

The text of 35 U.S.C. §103, which is not included in this action, can be found in a prior Office action.

With regard to Claims 1,16, 22 Mandler teaches a buyer/seller/broker intermediary system & method wherein buyers place Request for Quotes (FRQ) with a broker who then forwards the information to a plurality of sellers for consideration and response. See (Col. 3, lines 48-58). Mandler does not expressly teach the

publish/subscribe system & method described by the Applicant, however this an old and

well-known process exemplified by Bhatt. Bhatt discloses the following:

subscribing to a service interface a certain plurality of entities;
(Col. 5, lines 48-52)

publishing the message by a first entity;
(Col. 2, line 64 – Col. 3, line 5)

determining the selected ones of the plurality of entities to receive the message ; and
(Col. 3, line 66 – Col. 4, line 3)

publishing the message to the selected ones of the plurality of entities based upon the
determining. (Col. 11, lines 56-66)

Also, for each of the four (4) limitations above, see generally (Bhatt, Claims 1-2).

It would have been obvious to one of ordinary skill in the art at the time

Applicant's invention was made to combine the teachings of Mandler, relating to a

broker/intermediary between buyers and sellers, with the teachings of Bhat relating to a

publish/subscribe method. The motivation for such a combination can be found in both

references. In Bhatt, the use of the publish/subscribe system is contemplated for the

electronic commerce arts at (Bhatt, Col. 1, lines 24-28), which describes how the nature

of business events triggers the system. More importantly, however, Mandler suggest

using improved computer technologies at (Col.2, line 65 – Col. 3, line 29) to reduce

distribution cost, expand markets for sellers, and allowing buyers to price shop among

sellers via electronic commerce for optimal price and selection of goods.

Applicant has advanced several arguments suggesting the impropriety of

Mandler and Bhatt. Initially, Applicant describes the general system of Mandler that

involves an RFQ through a broker for various sellers and buyers, and also employs a

credit evaluation. Although the emphasis of the present application relates exclusively to

brokering RFQ's, the fact that Mandler includes additional credit evaluation steps does

not dictate that Mandler cannot be used as a reference to anticipate Applicant's claims.

Each of applicant's claims merely comprises the invention, meaning that additional

features are permissible in the reference.

Secondly, Applicant argues that Mandler does not teach the limitation of:

determining the selected ones of the plurality of e-business entities to receive the message by the broker and
publishing the message to the selected ones of the plurality of e-business entities based upon the determining by the
broker,

in that Mandler automatically forwards request for quotes from authorized buyers and

sellers. The examiner disagrees. Mandler lays out a framework for implementing the

methods as claimed by applicant in that RFQ's are submitted through a central

clearinghouse to be distributed among a plurality of e-business entities. Although there

is no filtering component *per se* in Mandler, this limitation is taught by the Bhatt

reference. Bhatt discloses the use of subscription rules in a publish-and-subscribe

method, which allow for filtering of recipients of particular messages. The rejection is

based on a combination of the two references. That is to say, Mandler could be

modified using the technology disclosed in Bhatt to sufficiently achieve the methods

claimed by Applicant. To that end, Applicant has failed entirely to challenge the

motivation to combine the references, but has only suggested that they are not

combinable. However, the test for obviousness is not whether the features of a

secondary reference may be bodily incorporated into the structure of the primary

reference; nor is it that the claimed invention must be expressly suggested in any one or

all of the references. Rather, the test is what the combined teachings of the references

would have suggested to those of ordinary skill in the art.   See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). The examiner is satisfied that one of ordinary skill in the art would have found obvious, a modification to the Mandler reference, and this is not argued by Applicant.

Applicant's primary remaining argument is that Bhatt is a relational database, publish and subscribe system. Applicant points out that "When a message is received by the system [in Bhaat], a two-tier evaluation system is used to determine if the subscriber should receive the message as noted above." (bracketed text added by Examiner). The Examiner contends that this is but one possible implementation of the methods claimed by Applicant. That is, Bhatt provides the technology to effectuate the desired results of Applicant. In a nutshell, Applicant's novel feature appears to be a publish-and-subscribe system for distributing RFQ's utilizing filters for discriminating against certain potential message recipients based on preferences provided by the user. However, when Mandler's similar RFQ methods are combined with Bhatt publish-and-subscribe filtering, Applicant's invention is obvious in view of the prior art.   The remaining claims are rejected under 35 U.S.C. 103(a) as detailed below.

With regard to Claims 2,21,23 in terms of initial limitation, as well as the last limitation, comprising:

setting an expiration time for the published message; and
and purging the message when the expiration period lapses,

the Examiner observes that an expiration time is a well known aspect of publish/subscribe system & method. Bhatt and Mandler do not expressly teach this

limitation, however it would be considered part of the teachings of Mandler/Bhatt combination. Bhatt does disclose the remaining two limitations:

retaining the published message;
(Col. 11, lines 62-66)

determining if an appropriate one of the plurality of entities has subsequently subscribed to the service interface so as to be identified to receive the message;
(Col. 12, lines 2-8)

Again, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine the teachings of Mandler, relating to a broker/intermediary between buyers and sellers, with the teachings of Bhat relating to sorting out new subscriber/sellers. The motivation for such a combination can be found in both references. In Bhatt, the use of the publish/subscribe system is contemplated for the electronic commerce arts at (Bhatt, Col. 1, lines 24-28), which describes how the nature of business events triggers the system. More importantly, however, Mandler suggest using improved computer technologies at (Col.2, line 65 – Col. 3, line 29) to reduce distribution cost, expand markets for sellers, and allowing buyers to price shop among sellers via electronic commerce for optimal price and selection of goods.

With regard to Claims 3,17,24 Mandler teaches the system & method comprising:

receiving the message at each of the selected ones of the plurality of entities;
(Col. 4, lines 25-29)

reviewing the message at each of the selected ones of the plurality of entities;
(Col. 4, lines 29-31, which implicitly contains a review of the RFQ)

and determining if a response to the message is to be generated at each of the selected ones of the plurality of e-business entities based upon the reviewing.
(Col. 4, lines 29-31)

With regard to Claims 4,18,25 Mandler teaches the system & method comprising:

publishing the response to the service interface based upon the determining;
(Col. 4, lines 29-31)

publishing the response to the broker by the service interface; and
(Col. 4, lines 29-31)

publishing the response to the first entity by the broker.
(Col. 4, lines 29-31)

It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine the teachings of Bhat relating to a publish/subscribe method with the teachings of Mandler providing for the review of incoming messages and the response thereto. The motivation for such a combination can be found in both references. In Bhatt, the use of the publish/subscribe system is contemplated for the electronic commerce arts at (Bhatt, Col. 1, lines 24-28), which describes how the nature of business events triggers the system. As well, Mandler suggest using improved computer technologies at (Mandler, Col.2, line 65 – Col. 3, line 12). An obvious business application is to publish responses to the RFQ's so as to consummate a transaction.

With regard to Claim 5,26 Mandler nor Bhat teach the method wherein:

the responding ones of the plurality of entities are each anonymous to the first entity.

The examiner takes Official Notice that anonymous publishing is old and well known in the art, and is a common occurrence in a publish/subscribe scenario. Therefore, it would have been obvious to one of ordinary skill in the art modify the

teachings of Mandler to expressly include anonymous publishing. The motivation for such a combination is to expand the number of applications available to users of the system.

With regard to Claim 6, Mandler does not teaches the method comprising:

publishing the response directly to the first entity based upon the determining.

However, once the seller knows the identity of the buyer, an inherent part of the system is that the seller can then either continue to process the RFQ using the broker, OR if so inclined, initiate communication with the buyer directly. Mandler thus anticipates this claim as well.

With regard to Claim 7,27 Mandler specifically emphasizes that buyers and sellers need not have previously conducted business together. Even so, there is nothing in the disclosure that indicates the buyer or seller <u>can not</u> know each other. Thus inherent to the system is the idea that in some cases, the responding ones of the plurality of entities are each known to the first entity.

With regard to Claim 8, Mandler teaches the method comprising:

publishing the response to the service interface based upon the determining;
(Col. 4, lines 29-31)

publishing the response to the broker by the service interface; and
(Col. 4, lines 29-31)

With regard to Claim 9, Mandler specifically emphasizes that buyers and sellers need not have previously conducted business together. Even so, there is nothing in the disclosure that indicates the buyer or seller <u>can not</u> know each other. Thus inherent to

the system is the idea that in some cases, the responding ones of the plurality of entities

are each known to the first entity.

With regard to Claims 10,19,28 Mandler teaches a system and method

wherein:

the message is a request for a quote (RFQ).
(Col. 7, lines 21-27)

With regard to Claims 11,20,29 Mandler teaches a system and method

wherein:

the response is a quote.
(Col. 7, lines 39-40)

With regard to Claim 12,30 Mandler teaches a method wherein:

the first entity is included in a first enterprise computer system and wherein at least one
of the responding entities is included in a second enterprise computing system.
(Col. 6, lines 22-40)

With regard to Claim 13,31 Mandler teaches a method wherein:

the first and the second enterprise computing systems are different enterprise
computing systems. (Col. 6, lines 40-43)

With regard to Claim 14,32 Mandler does not expressly teaches a method

wherein:

the first enterprise computing systems is an ebXML based enterprise computing
system.

However, the examiner observes that unless the use of a specific operating

system or programming language is *critical or uniquely required* for implementation of

the claimed method, very little patentable weight is given to claims identifying one

operating system or programming language.

Even so, the examiner observes that ebXML is more or less a framework for developing a business transaction vocabulary that is based on XML. Bhatt teaches using XML in its operation of a publish/subscribe system at (Col. 3, lines 50-57). As such, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine the teachings of Mandler, relating to a broker/intermediary between buyers and sellers, with the teachings of Bhat relating to a publish/subscribe method based on XML. The motivation for such a combination is found in Mandler at (Col.2, line 65 – Col. 3, line 29) which suggests using improved computer technologies to reduce distribution cost, expand markets for sellers, and allow buyers to price shop among sellers via electronic commerce for optimal price and selection of goods.

With regard to Claim 15,33 Mandler does not expressly teach the method wherein:

the second enterprise computing systems is an ebXML based enterprise computing system.

However, the examiner observes that unless the use of a specific operating system or programming language is *critical or uniquely required* for implementation of the claimed method, very little patentable weight is given to claims identifying one operating system or programming language.

Even so, the examiner observes that ebXML is more or less a framework for developing a business transaction vocabulary that is based on XML. Bhatt teaches using XML in its operation of a publish/subscribe system at (Col. 3, lines 50-57). As such, it would have been obvious to one of ordinary skill in the art at the time Applicant's

invention was made to combine the teachings of Mandler, relating to a broker/intermediary between buyers and sellers, with the teachings of Bhat relating to a publish/subscribe method based on XML. The motivation for such a combination is found in Mandler at (Col.2, line 65 – Col. 3, line 29) which suggests using improved computer technologies to reduce distribution cost, expand markets for sellers, and allow buyers to price shop among sellers via electronic commerce for optimal price and selection of goods.
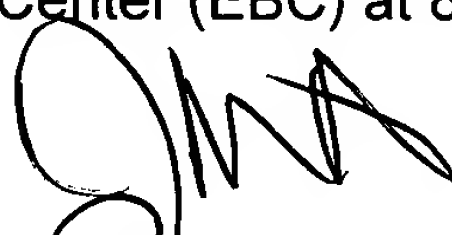
Conclusion

THIS ACTION IS FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Alpert whose telephone number is (571) 272-6738. The examiner can normally be reached on M-F 9:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,
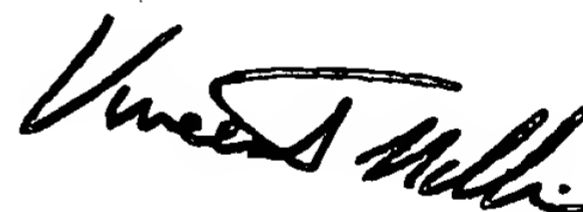
Vincent Millin can be reached on (571) 272-6747. The fax phone number for the

organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR.   Status

information for unpublished applications is available through Private PAIR only.   For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197.

James M. Alpert
October 13, 2005

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